

U.S. Magistrate Judge KAREN L. STROMBOM

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

JERRY SPICER,

Plaintiff,

v.

HENRY J. RICHARDS, PhD,

Defendant.

NO. C07-5109 FDB/KLS

AGREED MOTION AND ORDER
FOR ORAL DEPOSITIONS BY
NON-STENOGRAPHIC MEANS

NOTE ON MOTION CALENDAR:
MAY 13, 2008

Plaintiff Jerry Spicer, *pro se*, and defendant, through undersigned counsel, hereby jointly move the Court for entry of an agreed order allowing plaintiff to take depositions upon oral examination by non-stenographic means. Based upon this agreed motion:

(1) IT IS HEREBY ORDERED that the request to take oral depositions by non-stenographic means is granted.

(2) IT IS FURTHER ORDERED that defendant shall make available a person authorized to administer the oath and swear in the witness. That person may then vacate the deposition. Defense counsel shall operate three tape recorders during the deposition. Defense counsel shall provide three tape recorders to be used during the deposition.

(3) IT IS FURTHER ORDERED that plaintiff shall provide cassette tapes for plaintiff's and the court's copies of the deposition. Defense counsel shall provide cassette tapes for defendants' own use, or defendant may arrange for stenographic transcription at his expense.

1 (4) IT IS FURTHER ORDERED that at the end of the deposition, the plastic tab on
2 each cassette tape shall be removed to ensure the tape cannot be recorded over or erased. At the
3 end of the deposition, one copy of the tapes shall be appropriately labeled, sealed in an envelope,
4 and defendant's counsel shall mail the original tape to the court for filing.

5 (5) IT IS FURTHER ORDERED that plaintiff will deliver to defense counsel a typed
6 deposition transcript within twenty-one (21) days of the date of the deposition. Defense counsel
7 will verify the accuracy of the transcription, and then will deliver the transcript to the deponent,
8 who will be given thirty (30) days to read the transcription and make any corrections. Upon
9 receipt of the corrected transcript from the deponent, plaintiff shall make the corrections and
10 provide a copy to the Court and to defendant's counsel. Any objection to the accuracy of the
11 proffered transcript shall be made to the Court within thirty (30) days after it has been filed with
12 the Court and served upon opposing counsel, unless good cause is shown that additional time is
13 required.

14 (6) IT IS FURTHER ORDERED that the Court shall rule on any objections, if made,
15 by reviewing the original tape recording of the deposition in its custody, or by such means as it
16 deems appropriate.

17 (7) IT IS FURTHER ORDERED that the transcript of the deposition, as filed with the
18 Court or as modified by the Court after objections have been made and ruled upon, if any, shall
19 constitute the official record of the deposition for the purpose of trial or subsequent appeal.

20 (8) IT IS FURTHER ORDERED that should the equipment fail so that portions of the
21 tape are of such poor quality as to render the use of the tape unfair to the interest of any party, then
22 neither party shall use any part of the tape. *See United States v. Hargro*, 104 F.R.D. 451, 453
23 (1984).

24 (9) IT IS FURTHER ORDERED that defendant shall provide an appropriate room in
25 which to conduct the deposition.
26

1 The Clerk of the Court is instructed to send uncertified copies of this Order to the plaintiff
2 and defense counsel.

3 DATED this 16th day of May, 2008.
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6 
7 Karen L. Strombom
8 United States Magistrate Judge
9

10 Presented by:

11 ROBERT M. MCKENNA
12 Attorney General
13

14 _____
15 DONNA J. HAMILTON, WSBA #26894
16 Assistant Attorneys General
17 Attorneys for Defendant
18

19 Notice of Presentment Waived by:
20
21

22 _____
23 JERRY SPICER
24 Plaintiff, *Pro Se*
25
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